

MAILED

OEC 16 1987.

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE COMMISSIONER OF PATENTS AND TRADEMARKS

R-1987-5

In re)
)
Petitioner) Decision on Petition
)
_____)

(hereafter "petitioner") petitions for reconsideration of his answers to certain questions in the afternoon session of the examination for registration to practice before the Patent and Trademark Office (PTO) given April 7, 1987. More particularly, petitioner seeks review of portions of the decision of the Director of the Office of Enrollment and Discipline (OED) dated September 11, 1987, refusing to award petitioner sufficient points to entitle him to registration to practice before the PTO. The petition is dismissed as being untimely filed.

BACKGROUND

Petitioner was notified by letter dated June 10, 1987, from the Director of OED that petitioner had failed to attain a passing grade on the afternoon session of the April 7, 1987 examination for registration to practice. The last paragraph of that letter informed petitioner: "No matter pertaining to any examination will be considered by the Office of Enrollment and Discipline unless brought to the attention of this Office within two months from the date of this letter. 37 CFR 10.7(c)."

DISCUSSION

Although petitioner indicates that he is seeking review under 37 CFR 1.181(a)(3), which provides for petition to the Commissioner "to invoke the supervisory authority of the Commissioner in appropriate circumstances," authority exists in other regulations for review of a decision of the Director of OED. See 37 CFR 10.2(c), which is entitled "Review of Director's decision" and provides inter alia:

Any final decision of the Director [of OED] refusing to register an individual under [37 CFR] § 10.6 . . . may be reviewed by petition to the Commissioner upon payment of the fee set forth in [37 CFR] § 1.21(a)(5). A petition filed more than 30 days after the date of the decision of the Director may be dismissed as untimely.

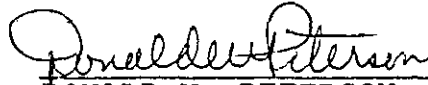
For petitioner's present paper to have been filed timely, it would have had to have been filed no later than October 11, 1987. The paper was received in the PTO on November 12, 1987, one month and one day later than the required date. No factual basis appears in that paper and no reasons are presented to establish that the delay in filing is excusable. Lacking this necessary showing, the petition is untimely and therefore dismissed.

CONCLUSION

The Director's decision dated September 11, 1987, will not be reviewed on the merits because the petition was not timely filed.

The petition is dismissed.

Dated: Dec. 16, 1987



DONALD W. PETERSON
Deputy Commissioner of
Patents and Trademarks